

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**August 16, 2004**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Nicholson, Associate Justice; Raye, Associate Justice; and Facey, bailiff.

**C041897      COALITION FOR REASONABLE REGULATION, etc. et al. v. CALIFORNIA  
AIR RESOURCES BOARD et al.**

Cause called. Mark D. Harrison argued and Gene K. Cheever appeared only for appellants. Ralph J. Venturino, Deputy Attorney General, argued and Robert C. Jenne appeared only for respondents. Cause submitted.

At 10:19 a.m., the court recessed. At 10:23 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

**C043764      PROUTY et al. v GORES TECHNOLOGY GROUP et al.**

Cause called. Arron R. Feldman argued for appellants. Scott Lawson argued for respondents. Cause submitted.

At 10:49 a.m., the court recessed. At 10:53 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

**C044691      CHUKS-ORJI v. BOB**

Cause called. Luke G. Conley argued for appellant. Scott L. Gassaway argued for respondent. Cause submitted.

At 11: 29 a.m., the court recessed. At 2:04 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

**C045570      FAIR POLITICAL PRACTICES COMMISSION v. AMERICAN CIVIL RIGHTS  
COALITION et al.**

Cause called. Charles H. Bell, Jr. argued for appellants. Steven Benito Russo argued and William L. Williams appeared only for respondent. Cause submitted.

At 2:45 p.m., the court recessed until 9:30 a.m., Tuesday, August 17, 2004.

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**The Minutes**

**August 16, 2004, continued**

- C043923      THE PEOPLE v. DARBY      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Davis, Acting P.J.  
Butz, J.
- C043955      THE PEOPLE v. WERVE, JR.      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Nicholson, Acting P.J.  
Raye, J.
- C043830      SOUTH COUNTY CITIZENS FOR RESPONSIBLE GROWTH et al. v. CITY OF  
ELK GROVE and M & H PROPERTY MANAGEMENT, INC. et al.**  
**C043830      THE PEOPLE ex rel. DEPARTMENT OF CONSERVATION et al. v. CITY OF  
ELK GROVE and M & H REALTY PARTNERS III et al.**  
**(Not for Publication)**  
The orders awarding attorney fees pursuant to Code of Civil Procedure  
section 1021.5 are reversed, and the matter is remanded to the trial court for  
further proceedings consistent with this opinion. The parties shall bear their own  
costs on appeal. (Cal. Rules of Court, rule 27 (a).)  
SCOTLAND, P.J.  
I concur: Davis, J.  
I concur with the majority's judgment...  
Nicholson, J.
- C045536      In re CONNOR B.; AMADOR COUNTY DEPARTMENT OF SOCIAL  
SERVICES v. MAUREEN B.      (Not for publication)**  
**C045616      In re RYAN B.; AMADOR COUNTY DEPARTMENT OF SOCIAL SERVICES v.  
MAUREEN B.      (Not for publication)**  
The judgment of disposition is affirmed.  
NICHOLSON, J.  
We concur: Sims, Acting P.J.  
Hull, J.

**August 17, 2004**

At 9:33 a.m., the court met in the Library and Courts Building to begin its  
court calendar session. Present were Nicholson, Associate Justice; Raye,  
Associate Justice; Hull, Associate Justice; and Rios, bailiff.

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**The Minutes**

**August 17, 2004, continued**

**C043447 THE PEOPLE v. MARLIN**

Cause called. Frank G. Prantil argued for appellant. Barbara J. Moore argued for respondent. Cause submitted.

At 9:57 a.m., the court recessed. At 10:02 a.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C044302 WRIGHT v. DEPARTMENT OF CORRECTIONS et al.**

Cause called. William E. Gilg argued for appellant. Kevin W. Reager, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:25 a.m., the court recessed. At 10:33 a.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

**C041958 KLAMATH RIVER DEVELOPMENT COMPANY v WISBAUER**

Cause called. Timothy H. Stearns argued for appellant. Jay-Allen Eisen argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 11:05 a.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C044659 VALLEY MEDIA, INC. v. WU**

Cause called. W. Dozorsky argued for appellant. Robert J. Dauphin argued for respondent. Cause submitted.

At 11: 28 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Butz, Associate Justice.

**C045316 AZTECA CONSTRUCTIONS, INC. v. ADR CONSULTING, INC.**

Cause called. Alan L. Martini argued for appellant. George R. Gore argued for respondent. Cause submitted.

At 2:19 p.m., the court recessed. At 2:25 p.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C044717 BEISSBARTH USA, INC, v. McGININIS**

Cause called. Raymond E. Lewis argued and Jon Daggett appeared only for appellant. Robert P. Biegler argued for respondent. Cause submitted.

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**The Minutes**

**August 17, 2004, continued**

At 2:51 p.m., the court recessed. At 3:22 p.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C042832      COLLINS et al. v. DEPARTMENT OF TRANSPORTATION, et al.**

Cause called. Tony J. Tanke argued for appellants. Jay-Allen Eisen argued for respondents. Cause submitted.

At 3:22 p.m., the court recessed. At 3:27 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C042320      THE PEOPLE v. SMITH**

Cause called. Meredith Watts, court appointed counsel, argued for appellant. Angelo S. Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 4:10 p.m., the court recessed until 9:30 a.m., Wednesday, August 18, 2004.

**C045547      In re S.R.; THE PEOPLE v. S.R.      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We concur: Raye, Acting P.J.

Butz, J.

**C043059      THE PEOPLE v. OLSEN      (Not for Publication)**

THE COURT:

It is ordered that the opinion filed herein on July 20, 2004, be modified...

There is no change in the judgment. The petition for rehearing is denied.

BY THE COURT:

BLEASE, Acting P.J.

BUTZ, J.

**August 18, 2004**

At 9:32 a.m., the court met in the Library and Court Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Sims, Associate Justice; and Guzman, bailiff.

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**The Minutes**

**August 18, 2004, continued**

**C044329      DEPARTMENT OF CORRECTIONS v. STATE PERSONNEL BOARD  
and HENNING**

Cause called. Christopher E. Thomas argued for appellant. Richard K. Werner argued for real party in interest-respondent and Karen J. Brandt argued for respondent. Cause submitted.

At 10:07 a.m., the court recessed. At 10:10 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Morrison, Associate Justice.

**C042586      THE PEOPLE v. HALL et al.**

Cause called. Richard L. Ruben, court appointed counsel, argued for appellant Primas. Mark Christianson, court appointed counsel, argued for appellant Hall. Catherine G. Tennant, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:40 a.m., the court recessed. At 10:44 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C044087      AUBURN WOODS I HOMEOWNERS ASSOCIATION et al. v. FAIR  
EMPLOYMENT AND HOUSING COMMISSION etc. and ABDELFAH  
ELEBIARI et al.**

Cause called. Timothy M. Muscat, Deputy Attorney General, argued for appellant. C. Athena Roussos argued for real parties in interest-appellants. Michael W. Thomas argued for respondents. Cause submitted.

At 11:16 a.m., the court recessed. At 2:03 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Sims, Associate Justice.

**C044468      PACHECO v. KING et al.**

Cause called. Gaspar R. Garcia, II argued for appellant. J. Scott Smith argued for respondent King. Thomas L. Riordan argued for respondent Lewis. Cause submitted.

At 2:29 p.m., the court recessed. At 2:33 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Raye, Associate Justice.

**C042375      THE PEOPLE v. RIVERA**

Cause called. Donald Masuda argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

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We concur: Davis, Acting P.J.  
Morrison, J.

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**August 18, 2004, continued**

**C045618 CALIFORNIA LAW ENFORCEMENT ASSOCIATION v. TALBOT, Individually  
and as Chair and Trustee, etc., et al. (Not for Publication)**

The order filed on October 21, 2003, awarding CLEA its attorney fees on appeal is reversed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a).)

ROBIE, J.

We concur: Scotland, P.J.

Blease, J.

**C045961 In re R.P. et al.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v.  
ANA P. (Not for Publication)**

The orders of the juvenile court are affirmed.

SCOTLAND, P.J.

We concur: Blease, J.

Davis, J.

**August 19, 2004**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Hull, Associate Justice; Robie, Associate Justice; and Facey, bailiff.

**C043572 GRAY v. MARTINET et al.**

Cause called. Ronald E. Mallen argued for appellants. Dana A. Suntag argued for respondent. Cause submitted.

At 10:01 a.m., the court recessed until 9:30 a.m., Friday, August 20, 2004.

**C043679 THE PEOPLE v. WALKER (Not for Publication)**

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Butz, J.

**C043725 THE PEOPLE v. METTLER (Not for Publication)**

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections.

BUTZ, J.

We concur: Raye, Acting P.J.

Robie, J.

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**August 19, 2004, continued**

- C044739      THE PEOPLE v. WELCH      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
We concur:    Blease, Acting P.J.  
Raye, J.
- C045325      THE PEOPLE v. FINKENKELLER      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Blease, J.  
Davis, J.
- C045963      THE PEOPLE v. ORIHUELA      (Not for Publication)**  
The judgment is reversed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
Robie, J.
- C046468      In re A.H.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. MELEIKA T.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
MORRISON, J.  
We concur:    Nicholson, Acting P.J.  
Hull, J.
- C047491      COUNTY OF SAN JOAQUIN v. THE STATE OF CALIFORNIA**  
**BY THE COURT:**  
The court examined the notice of appeal and determined that the order  
apealed from is nonappealable. Therefore, the appeal filed July 30, 2004, is  
dismissed. (Witkin, Cal. Procedure (4th ed. 1997) Appeal, section 113, pp. 178-  
179.)  
SCOTLAND, P.J.

**August 20, 2004**

At 9:35 a.m. the court met in the Library and Courts Building to begin its  
court calendar session. Present were Scotland, Presiding Justice; Blease,  
Associate Justice; Sims, Associate Justice and Rios, bailiff.



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**The Minutes**

**August 20, 2004, continued**

**C045798      SUTTER DAVIS HOSPITAL v. THE SUPERIOR COURT OF YOLO COUNTY  
and JOHNSON**

Cause called. Lillie Hsu argued and Jonathan Cork appeared only for petitioner. Joseph F. Harbison, III argued and Sandra L. Sava appeared only for real party in interest. Cause submitted.

At 10:13 a.m., the court recessed. At 10:18 a.m., the court reconvened.

**C044192      ARMSTRONG v. REGENTS OF THE UNIVERSITY OF CALIFORNIA et al.**

Cause called. Wendy C. York argued for appellant. Nancy J. Sheehan argued for respondent. Cause submitted.

At 11:00 a.m., the court recessed. At 11:05 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Nicholson, Associate Justice.

**C045573      HARDIE v. PEDDY**

Cause called. Myron Moskowitz argued for appellant. Scott A. Bovee argued for respondent. Cause submitted.

At 11:34 a.m., the court recessed. At 11:36 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C038860      ERICKSON v. CENTRAL VALLEY TOWING, INC. et al.**

**C038988      ERICKSON v. CENTRAL VALLEY TOWING, INC. et al.**

Cause called. Neil P. Pfeiffer argued for appellant. H. Thomas Watson argued and Brian Buddell appeared only for respondents. Cause submitted.

At 12:30 p.m., the court recessed. At 2:03 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

**C044111      THE PEOPLE v. THOMAS**

Cause called. Charles M. Bonneau argued for appellant. Janet E. Neeley, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:19 p.m., the court recessed. At 2:23 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.